IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

CRL.A.No. 312 of 2000()

CC.39/1998 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

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APPELLANT:

MATHEW GEORGE
S/O GEROGE, AGED 32
VADAKKEKARA HOUSE,
CHOMPANDU, KOZHIKODE
REP. BY POWER OF ATTORNEY
HOLDER K.A. JOSEKUTTY,
S/O ANTONY AGED 31
RESIDING AT KANJIRAKATTUTHODIYIL HOUSE
CHEMPANODE, KOZHIKODE

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SRI.SURESH SIVAPURAM

RESPONDENTS:

RAJEEVAN, ROOM NO.5/281
SHAHAL APARTMENT, PHD ROAD
CIVIL STATION, KOZHIKODE

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.312 of 2000

Dated this the 28th day of June, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 255(i) of Crl.P.C. as the complainant was absent.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 30.7.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl